

City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 12 Ordinance/Resolution# 09-10-441 Council District: All

For Meeting of May 17, 2010
(Adoption Date)

TITLE:

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ENTER INTO AN AGREEMENT WITH RIO BRAVO APPRAISERS DIVISION HOUSING SUPPORT, INC., OF LAS CRUCES, NM, TO PROVIDE ON-CALL APPRAISAL SERVICES ON AN AS-NEEDED BASIS IN AN AMOUNT NOT TO EXCEED APPROVED CITY COUNCIL BUDGETS.

PURPOSE(S) OF ACTION: Award Appraisal Services Pricing Agreement.

Name of Drafter: Nancy Montoya <i>NM</i>		Department: Public Works <i>PW</i>		Phone: 528-3171	
Department	Signature	Phone	Department	Signature	Phone
Originating Department	<i>[Signature]</i>	3333	Budget	<i>[Signature]</i>	2107
			Assistant City Manager	<i>[Signature]</i>	2271
Legal	<i>[Signature]</i>	2128	City Manager	<i>[Signature]</i>	2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Public Works Department-Real Estate Services Section requested proposals for Appraisal Services in December of 2009. These services are required to perform appraisals from time to time for a variety of projects which involve the purchase, sale, exchange, or lease of private or municipal property.

The City of Las Cruces purchases, sells, exchanges, or leases property for a variety of reasons. Right-of-way for new roadway or roadway rehabilitation projects, for the use of City departments as offices or recreation facilities, and for low income housing units. In each of these instances, appraisals are required to conform with State and Municipal statutes and to make sure the City pays or receives a fair market value to ensure the best use of taxpayer funds.

One (1) response was received. The submittal was evaluated on January 21, 2010. The Selection Advisory Committee (SAC) recommends award to the lone respondent. Scoring is reflected on the attached Exhibit "B".

SAC recommends award to Rio Bravo Appraisers Division Housing Support, Inc. for a one (1) year period from date of award with the option to renew for four (4) additional one (1) year terms provided the pricing, terms and conditions remain unchanged, at the discretion of the City and under mutual

agreement. Services may be utilized City wide and funding will be made available from various accounts as required.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
Various as projects are identified	Various	Various

1. Resolution.
2. Purchasing Manager's Request to Contract Form (PMRC), Exhibit "A".
3. SAC Score Sheet, Exhibit "B".
4. Draft Appraisal Services Agreement, Exhibit "C".

OPTIONS / ALTERNATIVES:

1. Vote "YES". This action will award the pricing agreements for Appraisal Services to Rio Bravo Appraisers Division Housing Support, Inc., of Las Cruces, NM, to provide on-call appraisal services on an as-needed basis in an amount not to exceed approved city council budgets.
2. Vote "NO". This action will not approve the pricing agreement and will require staff to explore alternate means of procuring appraisal services.
3. Modify the resolution and direct staff accordingly.

RESOLUTION NO: 09-10-441

A RESOLUTION AUTHORIZING THE CITY OF LAS CRUCES TO ENTER INTO AN AGREEMENT WITH RIO BRAVO APPRAISERS DIVISION HOUSING SUPPORT, INC., OF LAS CRUCES, NM, TO PROVIDE ON-CALL APPRAISAL SERVICES ON AN AS-NEEDED BASIS IN AN AMOUNT NOT TO EXCEED APPROVED CITY COUNCIL BUDGETS.

The City Council is informed that:

WHEREAS, the City of Las Cruces (City) requested proposals for Appraisal Services in December of 2009; and

WHEREAS, these services are required to perform appraisals from time to time for a variety of projects which involve the purchase, sales, exchange, or lease of, private or municipal property; and

WHEREAS, one (1) submittal was received by the Purchasing Section of the Finance Department; and

WHEREAS, the Selection Advisory Committee (SAC) evaluated the proposal on January 21, 2010; and

WHEREAS, agreements will be for one (1) year with the option to renew for four (4) additional one (1) year terms provided the pricing, terms and conditions remain unchanged, at the discretion of the City and under mutual agreement; and

WHEREAS, SAC recommends award to Rio Bravo Appraisers Division Housing Support, Inc. in an amount not to exceed City Council approved budgets.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the agreement for Appraisal Services is hereby awarded to Rio Bravo Appraisers Division Housing Support, Inc. of Las Cruces, NM in an amount not to exceed City Council approved budgets for a period of one (1) year from date of award.

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(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 2010.

By _____
Mayor, Ken Miyagishima

ATTEST:

City Clerk

(SEAL)

VOTE:

Moved by _____
Seconded by _____

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Connor:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Thomas:	_____

APPROVED AS TO FORM:



City Attorney

CITY OF LAS CRUCES

PURCHASING MANAGER'S REQUEST TO CONTRACT

For Meeting of: May 24, 2010

Resolution No.: 09-10-441

Contract Purchase For Appraisal Services

The Las Cruces City Council is provided the following information concerning this request:

RFP SOLICITATION INFORMATION:

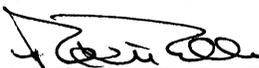
1. RFP No./ Due Date: RFP No. 09-10-441/January 21, 2010
2. Description: Appraisal Services
3. Using Department: Public Works/Real Estate Services Section
4. Number of Responses Accepted: One (1)
5. Award Recommendation To: **Rio Bravo Appraisers Division Housing Support, Inc.,
Of Las Cruces, NM**
6. Total Award Amount (including any tax and contingency): Indefinite
7. Contract Duration: **Five (5) Years Pending Approved Budget and Annual Renewals**

LOCAL PREFERENCE FACTOR

Local Preference Factor Applied Per LCMC §24-100	No		LCMC §24-100 not applicable to this solicitation
	Yes	X	Made A Difference To Awards(s)
		X	Made No Difference To Bid Award(s)

PROCUREMENT CODE COMPLIANCE:

The City of Las Cruces Procurement Code was administered in the conduct of this procurement and approval to purchase is hereby requested pursuant to **Section 24-92**.


 Purchasing Manager 4/27/10
 Date

CONFIRMATION OF FUND ENCUMBRANCE:

REQUISITION or PURCHASE ORDER NUMBER:	N/A – Indefinite Cost
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CITY OF LAS CRUCES		
RFP No.: 09-10-441		
Appraisal Services		
Due Date/Time: January 21, 2010 @ 4:00 p.m.		
PHASE I EVALUATION		
PROPOSAL SCORES		Rio Bravo Appraisers' Div
1	RATER #1	335
2	RATER #2	270
3	RATER #3	320
4	RATER #4	270
5	RATER #5	255
6	RATER #6	345
7	RATER #7	390
8	RATER #8	265
Rating Sheets Raw Score:		2450
(Less high score)		390
(Less low score)		255
Proposal Rating Sheets Net Scores		1805
TOP TEN PERCENT DETERMINATION		
Top ranked score		1805
Top ranked score -10%		1624.5
Determination to Proceed to Interview		PROCEED
INTERVIEW SCORES		Rio Bravo Appraisers' Div
1	RATER #1	0
2	RATER #2	0
3	RATER #3	0
4	RATER #4	0
5	RATER #5	0
6	RATER #6	0
7	RATER #7	0
8	RATER #8	0
Interview Rating Sheets Raw Score:		0
(Less high score)		0
(Less low score)		0
Interview Rating Sheets Net Scores		0
Proposal Rating Sheets Net Scores		1805
PHASE I TOTAL SCORE		1805
Determination to Proceed to Phase II		
Top ranked score		1805
Top ranked score minus 10%		1624.5
		PROCEED
PHASE II EVALUATION		
DEDUCTION FOR JOBS IN PROGRESS		
Enter Number of Raters -----	8	8
Jobs in Progress		0
Total Deduction for Job in Progress		0
LOCAL/STATE PREFERENCE		
		Local ? (Yes or No)
		0
Total Preference Points		0.0
TOTAL PH. I & II SCORE WITHOUT COST FACTOR		1805.0
PHASE II TOTAL SCORE		0.0
Grand Total		1805.0



**PROFESSIONAL
SERVICES AGREEMENT**

THIS AGREEMENT, made and entered into on this _____, of _____ 2010, by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and _____, of _____ hereinafter called "CONTRACTOR".

1. SCOPE OF SERVICES

In a satisfactory and proper manner, the CONTRACTOR shall perform SERVICES as proposed in response to the CITY'S RFP No. _____ incorporated herein by reference and as set forth in Exhibit A, attached hereto and made a part of this Agreement.

2. APPROPRIATIONS

The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to CONTRACTOR. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by CONTRACTOR and shall be final.

3. COMPENSATION

The CITY shall compensate CONTRACTOR for the performance of SERVICES under this Agreement an amount agreed to for each assigned project, plus applicable taxes. CONTRACTOR shall perform the SERVICES upon receipt of a written Notice to Proceed for each assigned project from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

CONTRACTOR is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. CONTRACTOR agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

4. DEVOTION OF ADEQUATE TIME

CONTRACTOR will devote the necessary hours each week to the performance of projects that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

5. TERM AND SCHEDULE

This Agreement shall become effective on (date of award) for a term of 12 months through _____ and, pending mutual written agreement, may be extended annually thereafter for up to four (4) more one year terms.

CONTRACTOR shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and CONTRACTOR in Exhibit B and as agreed to for each project assigned under the terms of this Agreement.

6. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall CONTRACTOR be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

7. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request CONTRACTOR to perform other extra services not incorporated within the Services set forth in this Agreement. If the CONTRACTOR is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, CONTRACTOR shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the CONTRACTOR within five (5) business work days from the date of receipt of CONTRACTOR'S written notification.

8. CHANGES AND EXTRA SERVICES BY THE CONTRACTOR

In the event a condition is identified by the CONTRACTOR which, in the opinion of the CONTRACTOR, changes the services, costs, and/or time required for performance under this Agreement, the CONTRACTOR shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of CONTRACTOR'S notification.

9. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of CONTRACTOR, and without the fault or negligence of CONTRACTOR, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. CONTRACTOR shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by CONTRACTOR to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

10. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to CONTRACTOR.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

11. RECORDS AND AUDITS

CONTRACTOR will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

12. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and CONTRACTOR will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the CONTRACTOR shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

13. INDEPENDENT CONTRACTOR

CONTRACTOR represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. CONTRACTOR, consistent with its status as an independent contractor, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that CONTRACTOR employs any employees, CONTRACTOR shall be solely responsible for providing its own form of insurance for its employees and in no event shall CONTRACTOR'S employees be covered under any policy of the CITY.

CONTRACTOR'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) CONTRACTOR is able, during the Term hereof, to perform services for other parties; and (ii) CONTRACTOR may perform for its own account other professional services outside the scope of this Agreement.

CONTRACTOR is and shall be an Independent Contractor and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, CONTRACTOR will at all times be acting and performing as an Independent Contractor, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, CONTRACTOR shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. CONTRACTOR will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which CONTRACTOR accomplishes and performs its services. Nevertheless, CONTRACTOR shall be bound to fulfill the duties and responsibilities contained in the Agreement.

14. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between CONTRACTOR and CITY. Except as otherwise specifically set forth herein, neither CONTRACTOR nor CITY shall be authorized or empowered to make any

representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

15. ASSIGNMENT.

CONTRACTOR shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

16. INSURANCE

CONTRACTOR shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

- a. Professional Liability: \$1,000,000 per claim

CONTRACTOR shall furnish the CITY with a certificate(s) of insurance showing CONTRACTOR and Subcontractors, if any, have complied with this Article. The CONTRACTOR shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

17. INDEMNITY AND LIMITATION

CONTRACTOR shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of CONTRACTOR, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

18. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

CONTRACTOR shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the CONTRACTOR'S services or any work done pursuant to this Agreement.

19. BREACH

In the event CONTRACTOR breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give CONTRACTOR written notice of such breach. In the event CONTRACTOR fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy CONTRACTOR'S breach and recover any and all costs and expenses in so doing from CONTRACTOR.

20. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and CONTRACTOR under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

In the event of termination, CONTRACTOR shall be compensated for all services performed and costs incurred up to the effective date of termination for which CONTRACTOR has not been previously compensated.

Upon receipt of notice of termination from the CITY, CONTRACTOR shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONTRACTOR in the performance of this Agreement, whether completed or in process.

21. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY: City of Las Cruces
PO Box 20000
Las Cruces, NM 88004
ATTENTION: William Hamm, Land Manager

With Copies to: City Attorney
Purchasing Manager

TO CONTRACTOR: Company Name
Address and Street
City, State and Zip
ATTENTION: _____

22 SCOPE OF AGREEMENT

This Agreement incorporates all of the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof and that all such covenants, agreements, and understandings have been merged into this written agreement. No prior agreement or understanding verbal or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this agreement.

CONTRACTOR

THE CITY OF LAS CRUCES

BY: _____
PRINCIPAL

BY: _____
PURCHASING MANAGER

DATE: _____

DATE: _____

APPROVED AS TO FORM:

CITY ATTORNEY